

BEFORE
THE PUBLIC SERVICE COMMISSION
OF SOUTH CAROLINA
DOCKET NO. 2019-352-C

IN RE: Frontier Communications of the)	REPLY OF ORS TO FRONTIER'S
Carolinas, LLC – Extended Interruption)	RESPONSE TO ORS'S PETITION
in Service in Georgetown County)	TO SUSPEND AND HOLD
)	UNIVERSAL SERVICE FUND
)	DISBURSEMENTS
_____)	

**TO: CHARLES L.A. TERRENI, ESQUIRE, AND SCOTT ELLIOTT, ESQUIRE,
ATTORNEYS FOR FRONTIER COMMUNICATIONS OF THE CAROLINAS,
LLC:**

The South Carolina Office of Regulatory Staff (“ORS”) hereby replies to the response of Frontier Communications of the Carolinas, LLC (“Frontier”) in opposition to ORS’s petition for an order authorizing it to suspend and hold South Carolina Universal Service Fund (“USF”) disbursements to Frontier pending the outcome of an audit to determine whether Frontier has used the USF it has received to date appropriately.

ORS’s request is that it be authorized to suspend and *hold* USF disbursements. If Frontier demonstrates it has been spending USF appropriately, the funds being held would be released, and Frontier would not be deprived of this funding to which it asserts it is entitled. If a dispute arises over whether the funds are being used appropriately, an evidentiary hearing before the Public Service Commission of South Carolina (“Commission”) may be necessary. Should Frontier not make this demonstration and the suspension remain in place, Frontier would not be denied any funding to which it is entitled, as it will have failed to meet part of its obligation in exchange for

receiving USF, which is the utilization of these funds for programs in South Carolina for which it is intended.

Frontier is a subsidiary of and controlled by Frontier Communications Corporation.¹ According to its website, Frontier Communications Corporation is a Fortune 500 company. It reported total third quarter 2019 revenue of \$1,997 million.² Yet Frontier argues it will be harmed irreparably and that its ability to provide adequate service will be seriously jeopardized if its scheduled November USF disbursement of \$553,314.31 and future similar monthly disbursements are delayed while it demonstrates it has been using USF appropriately. Ellis Affidavit ¶ 7. Prior to filing the petition, ORS had serious concerns about the financial integrity of Frontier. Frontier's claim of potential irreparable harm supports these concerns. The State of South Carolina and customers who are supposed to benefit from the programs USF was designed to support will suffer irreparable harm if Frontier fails to demonstrate it has been using USF for the programs for which it is intended and is financially unable to return any funds utilized in an inappropriate manner.

While Frontier tries to minimize the St. Luke Community outage in its response as a single, discrete event and asserts ORS only has speculation supporting its petition, that outage constitutes further significant evidence Frontier may not be using USF properly. A community of 21 people was without landline phone service, including the ability to call emergency services, for approximately 24 days. Meanwhile, Frontier's own communications with ORS suggested that for a significant part of that 24 days, it was pursuing a potential solution that would have taken longer than that ultimately implemented. Moreover, its recent report, filed in response to the Commission's Order Number 2019-755 in Docket Number 2009-220-C, detailing how Frontier

¹ See PSC Docket No. 2009-220-C, Order No. 2009-769 (Oct. 29, 2009), Order No. 2010-742 (Nov. 10, 2010), Order No. 2009-220-C (Feb. 11, 2015).

² <https://investor.frontier.com/file/Index?KeyFile=400838793> (November 22, 2019).

will seek to prevent similar extended service outages acknowledged its practice was to dispatch a single technician to work on common cause outages affecting less than 100 lines for an unspecified period of time before seeking assistance from its Network Operations Center.³ Frontier changed this practice only after the St. Luke outage and the actions taken by the Commission in response.

While ORS disagrees with Frontier's characterization of the USF as "a bargain between the incumbent local exchange carriers ("ILEC") and the State, in which the ILEC would reduce its rates in exchange for receiving a subsidy through the USF," it will not belabor the issue here, as it is not relevant to the petition before the Commission. Without question, ILECs, such as Frontier, are required to utilize USF received from the State of South Carolina for the programs for which it is intended and retain all records of operations demonstrating the funds received were used appropriately for a period of ten years from receipt of the funding. S.C. Code § 58-9-280(E)(10). All such records must be made available upon request of ORS. *Id.* The only potential evidence Frontier has provided to date of its use of USF is the 2018 Annual Report and an affidavit from its Senior Vice President, Governmental and External Affairs. Neither the affidavit nor Frontier's response provided any discussion or explanation of the total operations expenses and taxes listed in that Report, which raises questions about what that figure represents and how it supports Frontier's obligation to demonstrate USF support is used appropriately. Further, with regard to whether Frontier is meeting the requirements for receiving USF, the affidavit simply states: "Upon information and belief, Frontier is complying with the legal requirements for receiving distributions from the USF." Frontier should not be relying on information and belief but should know and, in short order, be able to provide evidence it is spending USF in an appropriate manner. The relief ORS seeks in the petition, thus, should not be a substantial burden.

³ PSC Docket No. 2009-220-C, filed November 15, 2019.

For the reasons set forth herein, in its petition, and at any oral argument or evidentiary hearing on the petition, ORS requests the Commission authorize ORS to suspend and hold USF disbursements to Frontier pending the outcome of the audit ORS has initiated of Frontier's use of USF. ORS respectfully requests the Commission rule on this petition on or before November 27, 2019. Otherwise, ORS, as the administrator of the funds, will release the normal monthly disbursement for November.⁴

Respectfully submitted and dated this 22d day of November, 2019.



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⁴ Frontier argues ORS's request violates the South Carolina Administrative Procedures Act, S.C. Code § 1-23-320. The relief ORS seeks is preliminary, not final, in nature. Further, the Commission has recognized there are situations where it may act on less than 30 days' notice. *See, e.g.*, S.C. Code Reg. 103-859.